

Health (Visiting Medical Officer Collective Negotiation Arbitration) Determination 2015

Notifiable Instrument NI2015—464

Made under the

Health Act 1993, s 33G Arbitration

I determine that any arbitration is to be conducted in accordance with the following principles and rules.

1. The arbitration must be conducted under the *Commercial Arbitration Act 1986*.
2. If the Arbitrator is not appointed within 7 days of a party giving written notice to another party requiring an arbitrator to be appointed the Minister may, in writing, appoint the Arbitrator.
3. The appointed Arbitrator must be a person with experience in determining industrial awards or a barrister with mediation experience, and have appropriate experience to enable them to carry out the arbitrator's role.
4. The Arbitrator may, subject to the *Commercial Arbitration Act 1986*, determine the procedure for the arbitration.
5. The parties must do all things reasonably necessary for the proper and expeditious conduct of the arbitration and without limiting that obligation, must comply without delay with any direction or ruling of the Arbitrator.
6. The Arbitrator is not bound by the rules of evidence and may inquire into and inform himself or herself on any matter in such a manner as he or she thinks fit, subject to the rules of procedural fairness.
7. The Arbitrator is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.
8. The Arbitrator is to take such measures as are reasonably practicable to ensure that the parties in the arbitration understand:
 - (1) the nature of the assertions made in the arbitration proceedings and the legal implications of those assertions, and
 - (2) the procedure for the arbitration.
9. The Arbitrator:
 - (1) is to act as expeditiously as is practicable,

- (2) is to ensure, as far as practicable, that all relevant material is disclosed to him or her so as to enable him or her to determine all of the relevant facts in issue in the arbitration,
 - (3) may require evidence or argument to be presented in writing and decide on the matters on which he or she will hear oral evidence or argument,
 - (4) in the case of a hearing may require the presentation of the respective cases of the parties in proceedings to be limited to the periods of time that he or she determines are reasonably necessary for the fair and adequate presentation of the cases, and
 - (5) may adjourn proceedings to any time and place (including for the purpose of enabling the parties to negotiate a settlement).
10. In making an award the Arbitrator must have primary regard to:
- (1) achieving the objective of improving the efficiency, effectiveness and quality of health services, and
 - (2) other public interest considerations.

Simon Corbell MLA
Minister for Health

5 August 2015